Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
The Effect of Foreign Mobile Termination	)	
Rates on U.S. Customers	)	IB Docket No. 04-398
	)	
	)	

REPLY COMMENTS OF IDT CORPORATION

IDT Corporation ("IDT") submits these Reply Comments to support the comments filed by MCI, Inc. ("MCI"), Sprint Corporation ("Sprint"), AT&T Corp. ("AT&T") and CompTel/ASCENT and request that the Commission initiate a Notice of Proposed Rulemaking ("NPRM") to consider the most appropriate method(s) to protect U.S. consumers from the anti-competitive effect of above-cost and discriminatory foreign mobile termination rates.

IDT believes the issue of inflated foreign mobile termination rates is fundamentally a consumer issue and the FCC has the authority and obligation to protect U.S. consumers. Commenters have presented considerable evidence that mobile termination is increasing in minutes as a total percentage of total international minutes, thus demonstrating that inflated foreign mobile termination rates is a growing problem. Moreover, commenters have presented considerable evidence that foreign mobile termination is a separate market and should be analyzed as such. Contrary to comments by foreign mobile carriers and domestic carriers with interests in foreign mobile carriers, foreign mobile termination rates are not subject to competition and the FCC should not rely on market forces to reduce rates. Also, despite comments by foreign mobile carriers and domestic carriers with interests in foreign mobile carriers, the FCC cannot rely on foreign regulatory bodies to reduce rates. The end result of the FCC's Notice of Inquiry should be a NPRM to further evaluate how the Commission may reduce foreign mobile termination rates and, by extension, reduce international rates to U.S. consumers.

High foreign mobile termination rates are ultimately paid by US consumers.

The issue of excessive foreign mobile termination rates is, first and foremost, a consumer issue. It is unquestioned – even by carriers such as Verizon[1] that oppose Commission action to reduce foreign mobile termination rates – that US consumers ultimately pay for the inflated termination costs US carriers must remit for foreign mobile termination. The cost to US consumers is great. For example, a subscriber to Verizon's "International Choice Plan With City Rates" pays $0.10 per minute to a wireline number in France[2], but the same caller pays $0.29 per minute to a wireless number in France because the caller must pay a Premium Service Termination Charge.[3] IDT does not present this example to criticize Verizon – its policy of cost recovery for foreign mobile calls is standard within the industry – but, rather, to prove a point: U.S. carriers pass their inflated mobile termination costs onto subscribers. Despite the best efforts of U.S. carriers[4], certain subscribers are bound to learn of the higher rates for foreign mobile terminated calls only when they receive their bill.[5] This results in customer confusion

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1 Verizon at 6-7.

2 http://www22.verizon.com/foryourhome/sas/ProdDescPrices.asp?ID=27521&CategoryID=206&state=P1&LD=Y

3 http://www22.verizon.com/foryourhome/sas/ProdDescPrices.asp?ID=27521&CategoryID=206&state=P1&LD=Y ("Many foreign telecommunications companies impose substantial fees on Verizon Long Distance to complete international calls for services they designate as premium. Premium services can include: international calls that terminate to wireless phones, pagers, personal computers and personal digital assistants (PDAs); international calls that require satellite technology; and international calls to chat lines or other information services such as 900 numbers. International calls that terminate to premium services in countries that impose premium fees will have a rate that is $.02 to $.40 per minute higher than the current rates for international calls that terminate to non-premium services.")

4 Sprint at 12-13.

5 "Sprint also follows a generous customer service/customer retention policy for residential subscribers who may suffer "sticker shock" based on a genuine awareness of mobile termination surcharges." Sprint at 13.

and either a loss for the carrier that chooses to a credit the customer's bill or a loss for the customer that did not realize the actual cost of their call.

The cost of foreign mobile termination rates has also stunted the development of a diverse, competitive international calling plans. IDT is not aware of any carrier that offers residential consumers a single rate to any country that has a significant difference between wireline and wireless termination rates. Carriers have two separate rates per country – one for wireline and a higher rate for wireless termination. Also, few carriers offer residential consumers unlimited international calling plans because of the uncertainty of their subscriber's calling patterns. Quite simply, a U.S. carrier cannot establish reasonably-priced unlimited foreign calling plans for a set rate because of the cost uncertainty: if the subscriber's calls are primarily or exclusively to foreign wireless devices, the carrier is virtually guaranteed to lose money on the plan. Accordingly, for the few carriers that have developed unlimited calling plans to countries with high mobile termination charges, calls to wireless devices are still billed separately. For example, AT&T's "Unlimited Country (SM) International Call Plan" offers unlimited calling to a particular international destination for a set rate, but the subscriber must still pay a mobile termination charge for those calls under the plan that terminate on wireless devices. Clearly, consumers will not receive diverse lower-priced international calling plans until the Commission takes action to reduce foreign mobile termination charges.

The problem of inflated foreign mobile termination charges is increasing because the number of international minutes terminating on wireless devices is increasing dramatically.

The evidence presented by AT&T and Sprint[6] is beyond question: U.S. originated, international telecommunications traffic is increasingly terminating to wireless devices instead of wireline phones. This is particularly the case in developing countries that do not have a wireline infrastructure. This trend has broad implications to U.S. carriers and consumers: as international minutes increasingly terminate on wireless devices, U.S. consumers will pay higher rates for their international calls. Many of these U.S. consumers are immigrants living in the US and have limited financial resources. The implications of this inefficiency extend beyond the U.S. as well. For example, because these foreign wireless carriers' businesses are based on a system that receives a disproportionate amount of revenue from wireless termination payments, as time goes by, these foreign carriers will resist termination charge reform because too much of their revenue will be based on this inefficiency. Thus, the inefficiencies created by foreign wireless carriers will grow and will increasingly be borne by U.S. consumers.

Foreign mobile termination is a separate market.

IDT agrees with AT&T[7] and CompTel/ASCENT[8] that mobile termination is a separate market. IDT disagrees with BellSouth[9] and other self-interested carriers that argue that call termination is simply a component of a broader wireless market. As CompTel/ASCENT has demonstrated, the EU has identified call termination as a separate market. If, as the CTIA argues, the FCC should not second guess the analytical

[6] *See*, AT&T at 5-7 and Sprint at 11.
[7] AT&T at 11-15.
[8] CompTel/ASCENT at 2-3.
[9] BellSouth at i.

frameworks of foreign regulators[10], then the question is beyond doubt: wireless termination is a separate market.

Foreign mobile termination rates are not subject to competition and the FCC cannot rely on market forces to reduce rates.

AT&T[11] and Sprint[12] have compared the issue of reforming international wireless termination rates to issue addressed by the Commission in its *CLEC Access Charge Reform Order*.[13] IDT agrees with this comparison. In the *CLEC Access Charge Reform Order*, the Commission recognized that because the terminating CLEC had bottleneck control over the termination facility and the terminating CLEC likely had no relationship to the calling party, the terminating CLEC had no commercial incentive to reduce rates. The comparison is nearly identical to wireless termination where the foreign mobile carrier has bottleneck control over the termination facility and has no incentive to reduce rates because the calling party – often a US consumer – is paying the termination rate via inflated rates to its service provider. Accordingly, the FCC may conclude in a rulemaking that action comparable to its approach in the *CLEC Access Charge Reform Order* (subject to some modification to reflect the fact that the issue is foreign, rather than domestic, carriers) is appropriate.

The FCC cannot rely on foreign regulatory bodies to reduce mobile termination rates.

Several foreign mobile carriers and domestic carriers with interests in foreign mobile carriers argue, in part, that foreign regulators are in the best position to determine mobile operators' termination rates and that, at most, the FCC should work with these

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[10] CTIA at 10-12.
[11] AT&T at iii.
[12] Sprint at 7-9.
[13] *Access Charge Reform*, Seventh Report and Order and Further Notice of Proposed Rulemaking, 6 FCC Rcd. 9923 (2001).

regulators on a case-by-case basis.[14] IDT agrees that the Commission should work with its foreign regulatory brethren, but we disagree that this should be the sole method of addressing this problem. Indeed, the evidence presented by AT&T[15] and CompTel/ASCENT[16] demonstrates that few foreign regulators are taking meaningful steps to reduce mobile termination rates. Additionally, IDT believes that suggestions that high foreign mobile termination rates be dealt with by the FCC on a case-by-case basis to be a gross waste of Commission resources, as the Commission simply does not have the staff to engage in negotiations with literally dozens of foreign regulatory agencies at once. Inflated foreign mobile termination rates are a global problem with a global root cause that requires a global solution.

Several carriers also argue that because the large majority of calls terminate on a mobile network originate within the foreign country, the cost is equally borne by those consumers.[17] This is an attempt to confuse, rather than clarify the issue. As AT&T demonstrates, many of the foreign mobile carriers are affiliates of the dominant carrier, meaning that the vast majority of calls that terminate on wireless networks within the offending country likely originate on the wireline network of the dominant carrier (or its wireless affiliate). Therefore, even if the dominant carrier is "paying" the wireless carrier an inflated mobile termination rate, the dominant carrier is simply taking money from one pocket and placing it its other pocket. Thus, there is no real motivation within the foreign country to lobby the regulator to reduce mobile termination rates.

[14] *See generally*, BellSouth at 21-22; CTIA at 10-12; Verizon at 4-5; and Western Wireless at 3-8.
[15] AT&T at 23-27.
[16] CompTel/ASCENT at 8-10.
[17] Verizon at 5-6.

The end result of the FCC's Notice of Inquiry should be a NPRM to further evaluate how the Commission may reduce foreign mobile termination rates and, by extension, reduce international rates to U.S. consumers.

Commenters in this proceeding fall primarily into two groups: those who suggest that the Commission do nothing to address the issue of inflated wireless termination rates because foreign regulators, foreign wireless carriers and the competitive market will reduce foreign mobile termination rates (to the degree that such rates even deserve to be reduced) and those who suggest that because foreign regulators, foreign carriers and the uncompetitive market have failed to reduce wireless termination rates, the Commission must act. IDT falls into the latter group. We believe the evidence presented by AT&T, MCI, Sprint, CompTel/ASCENT and other carriers has demonstrated the failures of the foreign carriers, regulators and the market to reduce rates for foreign mobile termination. These failures have harmed U.S. carriers through increased costs. More importantly, these failures have harmed U.S. consumers through higher rates and a lack of diverse international calling plans and pricing.

CONCLUSION

For the reasons set forth above, the Commission should initiate a Notice of Proposed Rulemaking to further explore the manner in which the FCC may implement regulations and policies that shall result in reduced foreign mobile termination rates for US consumers and carriers.

Respectfully submitted,

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